

# STATE OF NEW YORK

8843--A

Cal. No. 837

## IN SENATE

March 20, 2024

Introduced by Sens. RIVERA, KAVANAGH, GONZALEZ, MYRIE, HINCHEY, WEBB, KRUEGER, BAILEY, BRESLIN, BRISPORT, HARCKHAM, HOYLMAN-SIGAL, RAMOS, SALAZAR, SCARCELLA-SPANTON -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the public health law, in relation to providing public notice and public engagement when a general hospital seeks to close entirely or a unit that provides maternity, mental health or substance use care

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Short title. This act shall be known and may be cited as  
2 the "local input in community healthcare act".

3 § 2. Section 2801-g of the public health law, as added by chapter 541  
4 of the laws of 2010, subdivision 4 as added by section 3 of part E of  
5 chapter 57 of the laws of 2023, is amended to read as follows:

6 § 2801-g. Community [~~forum~~] notice and engagement on hospital closure.

7 1. Process for the closure of a general hospital or a unit of a general  
8 hospital. (a) This section sets forth a process for the closure of a  
9 general hospital or a unit of a general hospital. As used in this  
10 section, "unit" means a portion of a general hospital that offers  
11 licensed emergency, maternity, mental health or substance use services,  
12 including any specialty care or any other hospital service in an operat-  
13 ing certificate as approved under section twenty-eight hundred five of  
14 this article. For the purposes of this section, the closure of a unit of  
15 a general hospital shall include a reduction of such services. As used  
16 in this section, "reduction" means a reduction in services that results  
17 in:

18 (i) more than fifteen percent of a reduction in patient capacity of a  
19 unit within twelve months; or

20 (ii) a twenty-five percent or more reduction in patient capacity in  
21 aggregate within a twenty-four month period; or

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[~~-~~] is old law to be omitted.

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1 (iii) a thirty-five percent or more reduction in patient capacity in  
2 aggregate within a thirty-six month period.

3 2. Closure of a general hospital. (a) Written notification of a  
4 proposed closure of a general hospital must be provided to the depart-  
5 ment and all parties listed in subparagraph (ii) of paragraph (c) of  
6 this subdivision no later than two hundred seventy days prior to the  
7 proposed closure date. Nothing in this section shall prohibit a general  
8 hospital from conferring with the department prior to submitting such  
9 written notification to give informal notice and seek guidance.

10 (b) Application. A general hospital that seeks to close entirely  
11 shall submit an application that requires review by the public health  
12 and health planning council, or any successor entity. The application  
13 for the closure shall include a health equity impact assessment, as  
14 defined by section twenty-eight hundred two-b of this article, and a  
15 proposed closure plan. The application shall be submitted at least two  
16 hundred ten days before the proposed closure. No cessation, pause,  
17 transfer, or limitation of service may be carried out while the closure  
18 application is pending without prior written approval by the commission-  
19 er or the commissioner's designee, who may take into consideration the  
20 impacts on quality of care and patient safety stemming from changes in  
21 patient volume or services. As used in this section, "transfer of  
22 services" shall include conversion of services from inpatient to outpa-  
23 tient services, the moving of services to other facilities, or the  
24 transfer of personnel that would constitute a reduction or unavailabili-  
25 ty of services.

26 (c) Public community forum. (i) No later than [~~thirty~~] one hundred  
27 fifty days [~~after~~] prior to the proposed closure of a general hospital,  
28 the commissioner shall hold a public community forum for the purpose of  
29 obtaining public input concerning the anticipated impact of the general  
30 hospital's closure on access to health care services by members of the  
31 surrounding community, including but not limited to recipients of  
32 medical assistance for needy persons, the uninsured, and medically  
33 underserved populations as defined in paragraph (d) of subdivision one  
34 of section twenty-eight hundred two-b of this article, and options and  
35 proposals to ameliorate such anticipated impact. The commissioner shall  
36 afford community members, health care providers, labor unions, payers,  
37 businesses and consumers a reasonable opportunity to speak about rele-  
38 vant matters at such community forum.

39 [~~2-~~] (ii) No later than [~~sixty~~] thirty days [~~after~~] before holding a  
40 community forum pursuant to [~~subdivision one of this section~~] this para-  
41 graph, the commissioner shall make available to the public on the  
42 department's website information regarding:

43 [~~(a)~~] (A) the proposed closure plan submitted by the general hospital;  
44 (B) the anticipated impact of the general hospital's closure on access  
45 to health care services by members of the surrounding community, includ-  
46 ing but not limited to recipients of medical assistance for needy  
47 persons, the uninsured, and underserved populations;

48 [~~(b)~~] (C) specific measures the department and other parties have  
49 taken or will take to ameliorate such anticipated impact including but  
50 not limited to ensuring that the services to be eliminated would be  
51 available to Medicaid, or individuals that are insured by a publicly-  
52 subsidized plan and uninsured patients at the surrounding area facili-  
53 ties that are taking new patients; and

54 [~~(c)~~] (D) any further recommendations regarding access to health care  
55 services in communities impacted by the general hospital's closure.

[3-] (iii) A community forum conducted pursuant to this section shall be held at a location within a reasonable proximity to the general hospital or unit subject to the proposed closure, and shall be announced no less than ~~[ten]~~ fourteen days prior to the date of such community forum. Such forum shall be held at a proper time and be accessible to the impacted community virtually and physically.

~~[4. At least thirty days prior to a general hospital applying to the federal centers for medicare and medicaid services to convert from a general hospital with inpatients to a rural emergency hospital under 42 USC 1395x(kkk), or successor provisions, such hospital shall hold a public community forum for the purpose of obtaining public input concerning the anticipated impact of the hospital's closure of inpatient units, including but not limited to, the impact on recipients of medical assistance for needy persons, the uninsured, people with disabilities, and medically underserved populations, and options and proposals to ameliorate such anticipated impact.~~

The] (iv) No later than thirty days prior to a community forum under this section, the general hospital shall notify health care providers, labor unions, the [congressional] local, state, and federal legislative representative, the office of the attorney general, the county executive, mayor, town supervisor, and in the case of the city of New York, the borough president, and community board for [the] every district in which the [facility] general hospital is located, [the county executive of the county in which the facility is located, and the state senator and assembly member representing the area within which the facility is located] of the date, time, and location of the community forum. The general hospital shall afford all public participants a reasonable opportunity to speak about relevant matters at such community forum. Prior to [any] a community forum and as soon as practicable, the general hospital shall be required to:

[a)] (A) notify the office of mental health and the local director of community services in the event such general hospital has psychiatric inpatient beds licensed under article thirty-one of the mental hygiene law or designated pursuant to section 9.39 of the mental hygiene law, and

[b)] (B) notify the office of addiction services and supports in the event such general hospital has inpatient substance use disorder treatment programs or inpatient chemical dependence treatment programs licensed under article thirty-two of the mental hygiene law. The commissioner shall also accept comments submitted in writing at such public forum and by mail or electronic mail within at least two weeks following the community forum.

(v) The commissioner shall also accept comments submitted in writing at such public forum and by mail or electronic mail within at least two weeks following the community forum.

(d) Revised closure plan. No later than thirty days after the community forum, the general hospital shall submit a revised closure plan to the department addressing concerns raised by community stakeholders during the community forum. The general hospital and the department shall make the revised closure plan publicly available on their websites no later than forty-five days after the community forum.

(e) Public health and health planning council review. No later than ninety days prior to the proposed closure, the public health and health planning council, or any successor entity, shall hold a public meeting before the council to review the application, including the health equity impact assessment and revised closure plan. Within two weeks after

1 such meeting, the public health and health planning council shall make a  
2 recommendation to the commissioner for the commissioner's consideration.

3 3. Closure of a unit of a general hospital. (a)(i) Written notifica-  
4 tion of a proposed closure of a unit of a general hospital, as defined  
5 in subdivision one of this section, must be provided to the department  
6 and all parties listed in subparagraph (iv) of paragraph (c) of subdivi-  
7 sion two of this section no later than two hundred ten days prior to the  
8 proposed closure date. Nothing in this section shall prohibit a general  
9 hospital from conferring with the department prior to submitting such  
10 written notification to give informal notice and seek guidance.

11 (ii) A reduction in services or closure of a unit in a general hospi-  
12 tal shall not be required to undergo the process set forth in this  
13 section if the general hospital demonstrates to the department a good  
14 cause for such reduction or closure of a unit, which shall include one  
15 or more of the following:

16 (A) whether such closure or reduction is temporary in order to modern-  
17 ize a facility;

18 (B) whether such closure addresses the current health care demand,  
19 such as patient volume and the overall availability of services in the  
20 facility's health service area or county served;

21 (C) there are acute labor shortages outside of the control of the  
22 general hospital that impacts patient safety; or

23 (D) an acute financial emergency outside of the control of the general  
24 hospital.

25 (b) Application. A general hospital that seeks the closure of a unit  
26 shall submit an application to the department of health that requires  
27 review by the public health and health planning council, or any succes-  
28 sor entity in addition to approval by the commissioner. The application  
29 for the closure shall include a health equity impact assessment, as  
30 defined by section twenty-eight hundred two-b of this article, and a  
31 proposed closure plan. The application shall be submitted at least one  
32 hundred fifty days before the proposed closure. No cessation, pause,  
33 transfer, or limitation of service may be carried out while the closure  
34 application is pending without prior written approval by the commission-  
35 er or the commissioner's designee, who shall take into consideration the  
36 impacts on quality of care and patient safety stemming from changes in  
37 patient volume or services. As used in this section, "transfer of  
38 services" shall include conversion of services from inpatient to outpa-  
39 tient services, the moving of services to other facilities, or the  
40 transfer of personnel that would constitute a reduction or unavailabili-  
41 ty of services.

42 (c) Community public forum. (i) No later than ninety days prior to the  
43 proposed closure of a unit of a general hospital, the commissioner shall  
44 hold a public community forum for the purpose of obtaining public input  
45 concerning the anticipated impact of the unit's closure on quality and  
46 access to health care services by members of the surrounding community,  
47 including but not limited to recipients of medical assistance for needy  
48 persons, the uninsured, and medically underserved populations as defined  
49 in paragraph (d) of subdivision one of section twenty-eight hundred  
50 two-b of this article, and options and proposals to ameliorate such  
51 anticipated impact. The commissioner shall afford community members,  
52 health care providers, labor unions, payers, businesses, and other  
53 participants a reasonable opportunity to speak about relevant matters at  
54 such community forum.

55 (ii) No later than two weeks before holding a community forum pursuant  
56 to this paragraph, the commissioner shall make available to the public

1 on the department's website information regarding: (A) the proposed  
2 closure plan submitted by the general hospital; (B) the anticipated  
3 impact of the closure on quality and access to health care services by  
4 members of the surrounding community, including but not limited to  
5 recipients of medical assistance for needy persons, the uninsured, and  
6 underserved populations; (C) specific measures the department and other  
7 parties have taken or will take to ameliorate such anticipated impact  
8 including but not limited to ensuring that the services to be eliminated  
9 would be available to Medicaid, or individuals that are insured by a  
10 publicly-subsidized plan and uninsured patients at the surrounding area  
11 facilities that are taking new patients; and (D) any further recommenda-  
12 tions regarding quality and access to health care services in communi-  
13 ties impacted by the closure.

14 (iii) A community forum conducted pursuant to this paragraph shall be  
15 held at a location within a reasonable proximity to the unit subject to  
16 the proposed closure and shall be announced no less than fourteen days  
17 prior to the date of such community forum. Such forum shall be held at a  
18 proper time and be accessible to the impacted community virtually and  
19 physically.

20 (iv) No later than two weeks prior to the community forum under this  
21 section, the general hospital seeking to close a unit shall notify  
22 health care providers, labor unions, the local, state, and federal  
23 legislative representative, the office of the attorney general, the  
24 county executive, mayor, town supervisor, and in the case of the city of  
25 New York, the borough president, and community board for every district  
26 in which the general hospital is located, of the date, time, and  
27 location of the community forum. Prior to the community forum and as  
28 soon as practicable, the general hospital shall be required to: (A)  
29 notify the office of mental health and the local director of community  
30 services in the event such general hospital is seeking to close an inpa-  
31 tient psychiatric unit licensed under article thirty-one of the mental  
32 hygiene law or designated pursuant to section 9.39 of the mental hygiene  
33 law, and (B) notify the office of addiction services and supports in the  
34 event the general hospital is seeking to close an inpatient substance  
35 use disorder treatment programs or inpatient chemical dependence treat-  
36 ment programs licensed under article thirty-two of the mental hygiene  
37 law.

38 (v) The commissioner shall also accept comments submitted in writing  
39 at such public forum and by mail or electronic mail within at least two  
40 weeks following the community forum.

41 (d) Revised closure plan. No later than thirty days after the communi-  
42 ty forum, the general hospital shall submit a revised closure plan to  
43 the department addressing concerns raised by community stakeholders  
44 during the community forum. The general hospital and the department  
45 shall make the revised closure plan publicly available on their websites  
46 no later than forty-five days after the community forum.

47 (e) Public health and health planning council review. No later than  
48 thirty days prior to the proposed closure, the public health and health  
49 planning council, or any successor entity, shall hold a public meeting  
50 to review the application, including the health equity impact assessment  
51 and revised closure plan. Within two weeks after such meeting, the  
52 public health and health planning council shall make a recommendation to  
53 the commissioner for the commissioner's consideration.

54 4. The commissioner shall make their decision to either approve or  
55 deny the closure plan within thirty days following receipt of the recom-  
56 mendation from the public health and health planning council.

1     5. At least thirty days prior to a general hospital applying to the  
2 federal centers for medicare and medicaid services to convert from a  
3 general hospital with inpatients to a rural emergency hospital under 42  
4 USC 1395x(kkk), or successor provisions, such general hospital shall  
5 hold a public community forum for the purpose of obtaining public input  
6 concerning the anticipated impact of the general hospital's closure of  
7 inpatient units, including but not limited to, the impact on recipients  
8 of medical assistance for needy persons, the uninsured, people with  
9 disabilities, and medically underserved populations, and options and  
10 proposals to ameliorate such anticipated impact.

11     6. No later than January first, two thousand twenty-five and annually  
12 thereafter, the commissioner shall provide a report to the legislature,  
13 including but not limited to, identifying the general hospital or unit  
14 of a general hospital that has provided written notice of a closure, the  
15 proposed closure date and the services impacted by the proposed closure.  
16 Such report shall be provided in electronic format and shall be distrib-  
17 uted to the temporary president and minority leader of the senate, the  
18 speaker and minority leader of the assembly, the chair of the senate  
19 standing committee on health, and the chair of the assembly health  
20 committee.

21     7. No provision of this section shall modify any other requirement or  
22 process for the closure of a general hospital or a unit of a general  
23 hospital that is required pursuant to this chapter or the regulations  
24 promulgated pursuant to it, including but not limited to any department  
25 or public health and health planning council review or approval process.

26     § 3. This act shall take effect on the sixtieth day after it shall  
27 have become a law, and shall not apply to any proposed closures on  
28 notice to the department as of the date it shall take effect.